

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Petition for )  
Penalty Relief of: )**

**JAMES EDWARD SPITLER, M.D.)**

**Case No. 8002015012855**

**Physician's and Surgeon's )  
Certificate No. G 53654 )**

**Petitioner )  
\_\_\_\_\_ )**


**DECISION AND ORDER**

**The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 25, 2015.**

**IT IS SO ORDERED October 27, 2015.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Dev Gnanadev, M.D., Chair  
Panel B**

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MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Penalty Relief of:

JAMES E. SPITLER, M.D.

Physician's and Surgeon's Certificate  
No. G 53654

Petitioner.

Case No. 800-2015-012855

OAH No. 2015070104

**PROPOSED DECISION**

Mary-Margaret Anderson, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on September 28, 2015, in Oakland, California.

Robert Stewart, Attorney at Law, represented Petitioner James E. Spitler, M.D., who was present.

Emily Brinkman, Deputy Attorney General, represented the Office of the Attorney General, Department of Justice.

The record closed on September 28, 2015.

**FACTUAL FINDINGS**

1. On September 24, 1984, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. G 53654 to James E. Spitler, M.D. (Petitioner). The expiration date of the certificate is April 30, 2016. Dr. Spitler is board certified in anesthesia and currently practices addiction medicine.

*Background*

2. Effective November 29, 2012, the Board adopted a Stipulated Settlement and Disciplinary Order agreed to by Petitioner and the Board's Executive Director. Pursuant to the Order, Physician's and Surgeon's Certificate No. G 53654 was revoked, but the

revocation was stayed, and the certificate was placed on a probationary status for five years, under certain terms and conditions. The probationary term is currently scheduled to end on November 29, 2017.

3. On March 27, 2015, Petitioner submitted a Petition for Penalty Relief, requesting an early termination of probation. This hearing followed.

4. The basis for the Board's action was Petitioner's dependence on Ambien, a controlled substance. Petitioner also has a history of drug dependence and substance abuse involving other controlled substances, including Vicodin and Sufentnil. In 1997, he self-admitted to the Board's diversion program, and successfully completed it in 2003. For one week in November 2010 and again in January 2011, Petitioner used Fentanyl, also to help him sleep. He took leftover medication not used in surgical procedures and not properly wasted, and ingested it via a nose drip.

#### *Probation compliance*

5. Probation reports confirm Petitioner's assertions that he is in compliance with the terms of probation, including the biological fluid testing condition. He missed calling in a few days early in the term, but has not missed calling since 2012, and has never missed a test. All tests have been negative for controlled substances and alcohol.

6. Respondent has met the condition that he participate in psychotherapy by seeing Christine M. Fahrenbach, Ph.D., since December 4, 2012. The sessions were originally bi-monthly, and he now sees her monthly.

Dr. Fahrenbach provided quarterly reports to the Board. In a letter dated February 23, 2014, she wrote that Petitioner:

has been cooperative and engaged in psychotherapy focusing on recovery issues, stress management, family issues and sorting out questions and concerns pertinent to his future in medicine. Over the course of this time, [Petitioner] has entered a new area of medicine in which he is fully engaged and enjoys. He has positive relationships with his two grown daughters and a rich and meaningful relationship with this wife. [Petitioner] is involved with his church and community and finds support through others and a realistic spirituality.

Dr. Fahrenbach also wrote that Petitioner:

shows no signs or symptoms of any mental illness or condition and is fully capable of engaging patients in a professional competent manner. I see nothing that is an impediment to his

being released from probation and continuing in the successful manner that he has thus far demonstrated.

7. Christian F. Negard, M.D., is Petitioner's practice monitor. He works in Watsonville as a geriatrician with the Palo Alto Medical Foundation. In a letter dated January 1, 2015, Dr. Negard wrote:

I have maintained monthly reviews of [Petitioner's] practice, including chart reviews and discussions of his clinical work in addiction medicine with [Petitioner] at his office in Santa Cruz, California. I hold his capabilities and attitude in the highest regard. He serves his patients with integrity, commitment, and clinical excellence. . . .

His interests and background give him a humble window and thoughtful perspective into the population he serves. He is warm and attentive to his patients and continues to grow personally and professionally, advancing the goals that probation is designed to achieve. I believe those goals have been met at this time.

I confidently recommend early termination of [Petitioner's] probation with the Board.

8. Petitioner completed 95 credit hours of continuing medical education during his probationary term, exceeding the required 50 hours.

*Petitioner's additional evidence*

9. Stephen M. Stein, M.D., is board certified in addiction medicine and practices in Santa Cruz. He is the medical director or medical consultant to five residential drug treatment facilities and was formerly the Santa Cruz County Medical Director of Outpatient Clinics and Criminal Justice Medical Services. He met Petitioner in 2011, when Petitioner consulted Dr. Stein about his addiction treatment and Board issues. In a letter dated January 14, 2015, Dr. Stein wrote:

He asked in December 2012, if he could shadow me in my office, and came once or twice weekly for several months to sit in with the patients. I felt so positive about [Petitioner's] recovery that I asked him to cover my office practice some days, and now [he] is working for me when I am on vacation or otherwise unavailable.

I believe [Petitioner] is safe to practice medicine in an unsupervised position, poses no risk to the people of California,

and that his probation with the Medical Board of California can safely end.

10. Petitioner submitted a written statement and testified at hearing. He testified in a sincere manner, consistent with one who is telling the truth.

11. Petitioner received his medical doctorate from Rutgers University Medical School in 1983. He completed a residency in anesthesiology at Loma Linda University in 1986, and served as an assistant professor in the Department of Anesthesiology from 2004 until 2005. He practiced anesthesiology at Natividad Medical Center in Salinas from 2005 until 2012.

12. Petitioner asserts he has now been sober for four and one-half years. He attributes his sobriety to his active participation in Alcoholics Anonymous. Petitioner also completed a one-month program at New Life in San Jose on May 2011 and saw Dr. Stein for treatment.

Petitioner's AA involvement includes assistance from a sponsor, and sponsoring others. He continuously works the 12 steps with his sponsees, and shares his own history, issues, and triggers. He attends three to four meetings each week. His family life is supportive and he also participates in his church community. Petitioner engages in prayer and meditation and exercises regularly. He believes he has found balance in his life that will continue to support his sobriety.

13. Petitioner's work life has changed enormously. Instead of a long commute to work 60-70 hours weekly, including nights, at a trauma center in Salinas, he is working approximately two days each week at Dr. Stein's office. His work in addiction medicine also supports his recovery, as it is an additional way that he helps others in recovery. Petitioner is scheduled to take the addiction medicine boards in a few weeks. Board certification and a clear license are required to contract with the programs Dr. Stein serves. Petitioner hopes to be able to take over Dr. Stein's practice as Dr. Stein moves towards retirement. In one of her reports, Dr. Faranbach states that Petitioner has considered returning to work as an anesthesiologist in Salinas. Petitioner asserts that she was mistaken; he is unaware of the basis for her statement. He is looking forward to a career in addiction medicine and practicing close to his home in Santa Cruz.

14. Erik Washburn, M.D., is a licensed physician in California, and is in a pathology residency in Pennsylvania. In a letter dated December 16, 2014, Dr. Washburn describes his relationship with Petitioner, who served as his AA sponsor when Dr. Washburn began working with AA to attain sobriety from an addiction to pain medication. He wrote:

A sponsor is a step coach, so we immediately started working through the 12 Steps together, meeting nearly every week . . . to carefully analyze my understanding on each of the 12 Steps. His insight and effort helped me better experience the ways that

these steps of Alcoholics Anonymous would help me change my life, and remain sober.

Often his words still ring in my ears: “Erik, you must think of addiction as a disease like hypertension or diabetes but instead of taking medications, the treatment is based on going to meetings, working the steps, and helping others.” When I had a question, or needed support, regardless of the time of day, [Petitioner] always accepted my calls. I feel so fortunate to have had [Petitioner] as my sponsor, who also became my friend. I believe that he was the basis of long-term recovery for me.

With [Petitioner’s] thoughtful guidance, taking action, working the steps, and helping others, I have saved my life, my marriage, my relationships with my children and my career. I’m now succeeding in a career that I love. With new eyes I have personally witnessed [Petitioner’s] strong commitment to the goals of probation in his practice, and in his life. I believe that probationary supervision may be safely ended.

15. Charles E. Goforth has been Petitioner’s AA sponsor since 2011. In a letter dated February 22, 2014, Goforth wrote that he has been an AA member for 32 years and has sponsored a large number of men. Goforth wrote that Petitioner “has been clean and sober” since they met and has helped others gain sobriety as well. He opines that Petitioner is committed to the AA program, and that probation is no longer necessary.

## LEGAL CONCLUSION

1. The burden of proof in this matter is on Petitioner to show by clear and convincing evidence that his term of probation should end before its scheduled time. Business and Professions Code section 2307, subdivision (e), provides that in considering a petition for reinstatement or modification of penalty, “all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner’s activities during the time the certificate was in good standing and the petitioner’s rehabilitative efforts, general reputation for truth, and professional ability” may be considered.

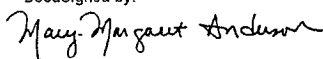
2. It is concluded that Petitioner has met his burden. He is in complete compliance with all of the conditions imposed by the probationary order, save serving the designated amount of time on probation. The disease of addiction is serious and lifelong, and relapses such as those experienced by Petitioner are common. During this period of sobriety Petitioner has made significant changes in his life and established habits to support continued sobriety. These include reduction in work based stress by changing his position

and field of practice; maintaining a support system that includes family, church community, regular AA attendance and participation; and regular exercise. Petitioner has chosen to work in addiction medicine, where he has much to offer patients and which serves to support his own continued sobriety. Random testing is a valuable tool to monitor sobriety, but at some point it has to end. Petitioner has had no positive tests, and credibly represents that he has been sober since 2011. For all of these reasons, it is concluded that continuing the probationary period is not necessary to protect the public; it would not be against the public interest to terminate probation at this time.

### ORDER

The petition of Petitioner James E. Spitler, M.D., for penalty relief is granted. Probation is terminated and Physician's and Surgeon's Certificate No. G 53654 is fully restored.

DATED: October 2, 2015

DocuSigned by:  
  
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MARY-MARGARET ANDERSON  
Administrative Law Judge  
Office of Administrative Hearings